

1
2 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

3 -----X
JOSIAH GALLOWAY,

4
5 PLAINTIFF,

6
7 -against-

19 CV 5026(AMD)(JO)

8 NASSAU COUNTY; THE INCORPORATED VILLAGE OF
9 HEMPSTEAD; POLICE OFFICER STEVEN HOROWITZ,
10 Shield No. 144; DETECTIVE MATTHEW ROSS,
11 Shield No. 834; DETECTIVE CHARLES DECARO,
12 Shield No. 1047; DETECTIVE RONALD LIPSON,
13 Shield No. 1296; DETECTIVE THOMAS
D'LUGINSKI, Shield No. 7900; DETECTIVE
14 GEORGE DARIENZO, Shield No. 1038; DETECTIVE
KEVIN CUNNINGHAM, Shield No. 112; DETECTIVE
15 SERGEANT RICHARD DORSI; DETECTIVE RENE B.
YAO; DETECTIVE CARL STRANGE, Shield No.
16 1225; DETECTIVE JOSEPH P. SORTINO; JOHN and
JANE DOE 1-20,

17
18 DEFENDANTS.

19 -----X
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21 DATE: November 16, 2020
22 TIME: 2:08 P.M.

23 DEPOSITION of the Defendant,
24 MATTHEW ROSS, taken by the Plaintiff,
25 pursuant to a Notice and to the Federal
Rules of Civil Procedure, held via Veritext
Virtual Zoom at the above date and time,
before Cathy Leone, a Notary Public of the
State of New York.

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2 A P P E A R A N C E S:

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23
24 ALSO PRESENT:

VERITEXT LEGAL SERVICES

25 BY: EDAN COPE, Videographer

1 M. ROSS

2 By the time you retired in
3 2017, approximately how many lineups have
4 you conducted?

5 A. I don't know.

6 Q. More than 25?

7 A. Definitely more than 25, but I
8 don't remember how many.

9 Q. Was it more than 100?

10 A. Again, I don't remember how
11 many.

12 Q. Now, did you ever receive any
13 training on how to conduct a lineup?

14 A. Yes.

15 Q. Did you receive training on
16 conducting a lineup while you worked at
17 NYPD?

18 A. No.

19 Q. So was your training from
20 Nassau County?

21 A. Yes.

22 Q. I'm just asking for an
23 approximate time period.

24 When did you receive that
25 training? Was it when you first came on as

1 M. ROSS

2 an officer, was it later in your career or
3 something else?

4 A. It was several times.

5 Q. Approximately when was the
6 first time you received the training?

7 A. In the police academy.

8 Q. Do you remember what that
9 training was like? Was it like classroom
10 training, was it on-the-job training or
11 something else?

12 MR. SOKOLOFF: Objection.

13 You can answer.

14 A. Classroom.

15 Q. You said classroom?

16 A. Yes, classroom.

17 MR. SOKOLOFF: Just pause
18 before you answer and give me a
19 chance to object, please.

20 THE WITNESS: You got it,
21 Brian.

22 Q. What do you remember from that
23 training?

24 MR. SOKOLOFF: Objection.

25 You can answer.

1 M. ROSS

2 A. Just that it was classroom
3 instructions and what a lineup was and how
4 they wanted it conducted in Nassau County.

5 Q. Okay. This might make it
6 easier. Instead of parsing out when you
7 received what training, just generally, in
8 your training at Nassau County, what do you
9 remember being taught in connection with
10 lineups?

11 MR. SOKOLOFF: Objection.

12 You can answer.

13 A. The first time I received the
14 training was from Detective Lieutenant
15 Fleming in the police academy, and he was
16 also the man who taught me when I went to
17 the Eighth Squad. He was also my
18 supervisor or commanding officer. He was
19 the former commanding officer of Robbery
20 Squad, and he sat with all of the
21 detectives and went through how lineups
22 would be conducted.

23 Q. And what specifically did he
24 tell you about how lineups should be
25 conducted?

1 M. ROSS

2 MR. SOKOLOFF: Objection.

3 You can answer.

4 A. That when we run lineups in
5 Nassau County, it is always in a seated
6 position.

7 Q. Okay.

8 A. We make the height to be
9 exactly the same height when people are
10 sitting. We use sheets in front of the
11 defendant and all of the fillers, so you
12 can't see anything they are wearing and
13 that the only thing that's really shown is
14 that they will have a number on -- usually
15 it is on their lap, and again, then he went
16 over different specifics in lineups, but
17 basically that was what we were taught.

18 Q. Okay.

19 Were you taught anything about
20 the participants in the lineup wearing
21 hats?

22 A. When? When I first learned it
23 or as I was going through the, you know,
24 other trainings? What part are you asking
25 for?

1 M. ROSS

2 Q. That's a good question.

3 I guess really at any point in
4 your training, did the subject of
5 participants wearing hats come up?

6 A. Yes.

7 Q. What were you told about that?

8 A. Again, when I went to the
9 Eighth Squad, Detective Lieutenant Fleming
10 made us run lineups even on minor, minor
11 case so we were familiar on how to do them,
12 and that is one of the things that he
13 brought up, that sometimes in certain cases
14 people can change their appearances and the
15 goal of the lineup is to make it as fair as
16 we can for the defendant and to try the
17 best to make everybody look the same.

18 Q. So how would that involve hats?

19 A. Well, like I said, in some
20 cases people could change their
21 appearances, so if that's a scenario where
22 someone changed their appearance, and it is
23 not possible to -- not really possible --
24 probable to do that lineup that way, then
25 you would try to make it uniformity where,

1 M. ROSS

2 again, if you had put hats on somebody to
3 try to make everybody look the same, that's
4 what we would do.

5 Q. Okay.

6 When you say try to make
7 everyone look the same, are you trying to
8 make everyone in the lineup look like the
9 suspect or look like the description, or
10 what is everyone supposed to look like?

11 MR. SOKOLOFF: Objection.

12 You can answer.

13 A. We are trying to make everyone
14 look the same, so it is as fair as it can
15 be for the defendant.

16 Q. Now, in your experience
17 conducting lineups, did you ever conduct a
18 lineup with the suspect's criminal defense
19 attorney present?

20 A. Many times.

21 Q. And in your experience, would
22 the defense attorney be part of the
23 prepping for the lineup and getting it set
24 up?

25 MR. SOKOLOFF: Objection.